

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JOAQUIN MANUEL CORONADO,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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2:23-CV-098-Z-BR

FINDINGS, CONCLUSIONS AND RECOMMENDATION
TO DISMISS FOR WANT OF JURISDICTION

On June 2, 2023, Petitioner tendered to the Court a Motion to Appoint Counsel pursuant to a writ of habeas corpus under 28 U.S.C. § 2254. (ECF 3). However, Petitioner’s Motion was not accompanied by even a skeleton § 2254 petition, and no such petition exists in the records of the Court.

Federal courts lack jurisdiction to consider a § 2254 petition until it is actually filed. *See United States v. McFarland*, 125 F. App’x 573, 574 (5th Cir. Apr. 6, 2005) (per curiam) (“Before the petition itself is actually filed, ‘there is no case or controversy to be heard, and any opinion we were to render on the timeliness would be merely advisory.’” (quoting *United States v. Leon*, 203 F.3d 162, 163 (2d Cir. 2000) (per curiam))). Likewise, until Coronado files a § 2254 petition, there is neither an adverse party before the Court nor a concrete dispute for the Court to decide. *Wawak v. Johnson*, 2001 WL 194974, at *1 (N.D. Tex. Feb. 22, 2001), *rec. adopted*, 2001 WL 290526 (N.D. Tex. Mar. 21, 2001).

This case consists entirely of a Motion to Appoint Counsel. (ECF 3). Such a Motion does not present a justiciable controversy. The undersigned cannot interpret such a Motion as a formal Petition for Writ of Habeas Corpus because it does include a recitation of even the most basic facts.

RECOMMENDATION

Accordingly, it is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that this matter be dismissed for want of jurisdiction.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Findings, Conclusions and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED June 26, 2023.


LEE ANN RENO
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled “Objections to the Findings, Conclusions and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge and accepted by the district court. *See Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1), *as recognized in ACS Recovery Servs., Inc. v. Griffin*, 676 F.3d 512, 521 n.5 (5th Cir. 2012); *Rodriguez v. Bowen*, 857 F.2d 275, 276–77 (5th Cir. 1988).